

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANK REIGHTLER

Plaintiff

## CIVIL ACTION – LAW

V.

MONMOUTH BIOPRODUCTS, LLC,  
a/d/b/a MONMOUTH  
BIOPRODUCTS, INC. and SEAN M.  
DUDDY,

## Defendants

# JURY TRIAL DEMANDED

No.

## DEFENDANTS' NOTICE OF REMOVAL OF ACTION

Defendants, MONMOUTH BIOPRODUCTS, LLC a/d/b/a MONMOUTH BIOPRODUCTS, INC. AND SEAN M. DUDDY, (collectively “Monmouth BioProducts”) through their undersigned attorneys, give notice of the removal to this Court of a state civil action pending in the Court of Common Pleas of Carbon County, Pennsylvania, and in support thereof aver as follows:

1. The undersigned represents all defendants named in this matter.
2. A civil action has been brought against Monmouth BioProducts by Frank Reightler (“Reightler”) and is pending in the Court of Common Pleas of Carbon County at 13-Civ-2360.

3. 28 U.S.C. § 1332 (a)(1) gives the district court original jurisdiction over cases between citizens of different states in which the matter in controversy is greater than seventy-five thousand dollars (\$75,000). Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 373 (1978).

4. In order for jurisdiction to exist, there must be complete diversity, meaning that each defendant must be a citizen of a different state from each plaintiff. Id.

5. The person asserting jurisdiction bears the burden of showing that the case is properly before the court at all stages of the litigation. Packard v. Provident Nat'l Bank, 994 F.2d 1039, 1045 (3d Cir. 1993).

6. The state court wherein this action was originally filed is located in Carbon County, Pennsylvania, which is embraced within this judicial district.

7. Reightler is an adult individual who resides at 145 Unionville Road, Jim Thorpe, Carbon County, Pennsylvania.

8. All Defendants in this action are citizens of states other than the Commonwealth of Pennsylvania.

9. Monmouth BioProducts, LLC a/d/b/a Monmouth BioProducts, Inc. is a New Jersey business entity with a principal place of business at 3 Industrial Court, Suite 4, Freehold, New Jersey.

10. At the time of the filing of this action, all of Monmouth BioProducts members were citizens of a state other than the Commonwealth of Pennsylvania.

11. Sean Duddy, individually, is a resident of Monmouth County, New Jersey.

12. Reightler has alleged compensatory damages in the amount of \$100,000.00, as well as pre-judgment and post-judgment interest, attorney fees, costs of suit and liquidated damages in an amount equal to 25% of the total amount of wages due.

13. The amount in controversy in this action is therefore in excess of \$75,000, exclusive of interest and costs and therefore provides grounds for removal pursuant to 28 U.S.C. 1446(c).

14. Had this action been brought in Federal Court initially, the United States District Court for the Middle District of Pennsylvania would have had original jurisdiction over the subject matter under 28 U.S.C. § 1332.

15. The Complaint in this action has not yet been served on Monmouth BioProducts or Sean Duddy, individually. Defendants received notice of the Complaint on November 19, 2013. The instant removal petition is filed within thirty days thereof as required under 28 U.S.C. §1446(b). A copy of the Complaint is attached hereto as Exhibit A. No other process, pleading or orders have been served upon Defendants.

16. Attached hereto as Exhibit B is the correspondence from Reightler's counsel providing Notice of the Complaint to Attorney Peter C. Lucas, who is New Jersey counsel for Monmouth BioProducts.

17. The statutory requirements of 28 U.S.C. §1446 having been met, this state action is properly removed to this Court.

Respectfully submitted,

s/ Erin A. Brennan

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Attorney for MONMOUTH BIOPRODUCTS, LLC, a/d/b/a  
MONMOUTH BIOPRODUCTS, INC. and SEAN M. DUDDY

**CERTIFICATE OF SERVICE**

I, Erin A. Brennan, **ESQUIRE**, of Oliver, Price & Rhodes, hereby certify that on the 18th day of December, 2013, I served a true and correct copy of the foregoing NOTICE OF REMOVAL OF ACTION pursuant to the Federal Rules of Civil Procedure, addressed as follows:

**Richard P. Focht  
Schoffstall & Focht, PC  
Suite 200  
Orefield, PA 18069**

s/ Erin A. Brennan  
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Erin A. Brennan, Esquire